

REMARKS

Restriction is required under 35 U.S.C. 121 by the Examiner between the following groups:

- Group I: Claims 24, 25, 28-30, 35-41, 44, 45 and 48, drawn to a separable fastener coated with a composition comprising an aqueous dispersion of a polyurethane derived from a macromolecular polyol, a polyisocyanate, a chain extending agent and 2,2-dimethylolbutanoic acid and, optionally, an aqueous dispersion of an acrylic resin;
- Group II: Claims 26, 27 and 34, drawn to the separable fastener of Group I wherein the composition further comprises a curing agent;
- Group III: Claims 31-33, drawn to the separable fastener of Group I wherein the aqueous polyurethane dispersion further comprises a plasticizing compound;
- Group IV: Claims 42 and 43, drawn to the separable fastener of Group I wherein the aqueous polyurethane dispersion is further derived from a tertiary amine; and
- Group V: Claims 46 and 47, drawn to a method of manufacturing a separable fastener.

Applicants elect with traverse the Group I invention above, Claims 24, 25, 28-30, 35-41, 44, 45 and 48 drawn to a separable fastener coated with a composition comprising an

aqueous dispersion of a polyurethane derived from a macromolecular polyol, a polyisocyanate, a chain extending agent and 2,2-dimethylolbutanoic acid and, optionally, an aqueous dispersion of an acrylic resin.

Restriction is only proper if the claims of the restricted groups are independent and patentably distinct and there would be a serious burden placed on the Examiner if the restriction is not required (M.P.E.P. § 803). The burden of proof is on the Examiner to provide reasons and/or examples to support any conclusion in regard to patentable distinctions (M.P.E.P. § 803).

The Examiner has indicated inventions I and II (or III or IV) are related as mutually exclusive species in an intermediate-final product relationship. Distinctness is proven for claims in this relationship if the intermediate product is useful to make other than the final product (M.P.E.P. § 806.04(b), 3rd paragraph, and the species are patentably distinct (M.P.E.P. § 806.04(h). In this instance the Examiner is alleging the intermediate product is deemed to be useful as a molding formulation and the inventions are deemed patentably distinct since there is nothing in the record to show them to be obvious variants.

Applicants rebut this argument that an intermediate final product relationship exists between Groups I and II-IV. Specifically, while the Examiner says Group I is an intermediate product that can be used in other final products such as moldings, it would appear that the final product of Groups II-IV could also be used as a molding formulation. Therefore, no alternative use is shown as required by M.P.E.P. § 806.04(h). That groups II-IV form structural distinct products, does not preclude them from use as a molding formulation.

The Examiner also indicated that inventions V and I or II or III or IV are related as process of making and product made. Under this category the inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make

another materially different product or (2) that the product as claimed can be made by a materially different process M.P.E.P. § 806.05(f). The Examiner alleges in this instance the separable fastener can be coated with a materially different composition containing a polyester or a polyamide.

Applicants rebuts for the following reasons. Here it would appear that the product, a separable fastener, has not been shown to be made by a materially different process by the mere fact that it is coated with another composition such as a polyester or a polyamide, i.e., no other materially different process features have been alleged.

The Examiner has also set forth an election of species requirement between the following species:

- a) The macromolecular polyols of the aqueous polyurethane dispersion. The polytetramethylene glycol (PTG1000 as identified in Table 1 on page 19 of the specification) of Reference Example 1 on page 22, lines 4-19 was elected in parent application no. 10/059,410 in the non-Final rejected mailed June 4, 2003 on page 6;
- b) The chain extending agents of the aqueous polyurethane dispersion. The piperazine hexahydrate (PIP) of Reference Example 1 was elected in the parent application;
- c) The coating compositions with or without the aqueous acrylic resin dispersions; wherein if its presence is elected a specific species thereof is identified such as acrylic resin obtained by allylmethacrylate, hexanediol diacrylate, methyl methacrylate and methacrylic acid shown in Reference Example 11 on page 22, lines 4-19. Contingent upon the election of Group II, items a), b), and c)

hereinabove and the curing agents such as the polyepoxide CR-5L employed in Example 1 on page 25, lines 9-10;

- d) Contingent upon the election of Group III, items a), b), and c) hereinabove and the plasticizing compounds such as the ethylene dibromide-4,4'-isopropylidene bis(2,6-dibromophenol) condensate of claim 32; and
- e) Contingent upon the election of Group IV, items a), b) and c) hereinabove and the tertiary amines such as the diethylaminoethanol (DEAE) of Reference Example 1.

Applicants elect a single disclosed species within each of groups a), b), and c) above. In a) Applicants elect polytetramethylene glycol as the macromolecular polyol; b) piperazine as the chain extending agent; and c) the absence of the aqueous acrylic resin.

Applicants make this provisional election of species for search purposes only and requests that if the elected species are found allowable the Examiner expand the search to non-elected species.

Applicants submit that this application is now in a condition for examination on the merits and early notification of such action is earnestly solicited.

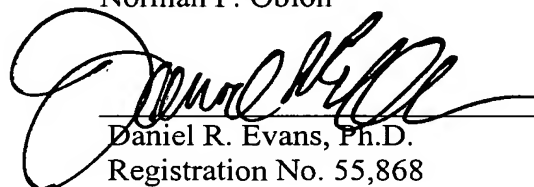
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